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May 16, 2008

Magistrate Judge Elizabeth D. Laporte
450 Golden Gate Avenue
Courtroom E, 15th Floor
San Francisco, CA 94102

Re: *Network Appliance, Inc. v. Sun Microsystems, Inc.*
Case No. C-07-06053 EDL

Dear Judge LaPorte:

This letter is an update regarding Sun's pending motion for a stay based on reexams in the Patent Office.

At the hearing this past Tuesday, NetApp stated that, consistent with the Court's direction, the parties had planned to negotiate to trim down this case to something manageable and balanced for the claim construction process, such as four patents per side with a limited number of disputed claim terms. The parties owe the Court a case management report on this subject by May 27, 2008, in advance of the June 3, 2008 case management conference. The parties planned to negotiate this "trim down" now so it can be resolved before or at the June 3 hearing.

NetApp is prepared to exchange each side's proposed selected patents during next week (by May 23) and to work out the particulars of the "trim down." NetApp expects to report by the end of next week that it will not be including at least one and possibly two of the patents at issue on the motion among the patents to be included in the scheduled claim construction process in this case.

Respectfully Submitted,



Edward R. Reines

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cc: Mark Fowler , DLA Piper US LLP